

PATENT COOPERATION TREATY

REC'D 27 JUN 2005

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From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/012181

International filing date (day/month/year)
11.04.2005

Priority date (day/month/year)
08.04.2004

International Patent Classification (IPC) or both national classification and IPC
B65D71/00

Applicant
MEADWESTVACO PACKAGING SYSTEMS LLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epimu d
Fax: +49 89 2399 - 4465

Authorized Officer

Fitterer, J

Telephone No. +49 89 2399-7916



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/012181

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/012181

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	1-12
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 1 Reference is made to the following documents:

D1 : FR 2 752 559 A (SMURFIT SOCAR) 27 February 1998 (1998-02-27)
D2 : US 5 022 525 A (SCHUSTER ET AL) 11 June 1991 (1991-06-11)
D3 : US 4 646 917 A (SCHUSTER ET AL) 3 March 1987 (1987-03-03)

2 INDEPENDENT CLAIMS

- 2.1 Document D1 discloses (cf. figures 1-7) a top closure panel (3) for closing the top of an open-topped container (1), the panel (3) having a plurality of apertures (5), each to receive a portion of an article (2) held within the container (1).

From this, the subject-matter of independent claim 1 differs in that at least one of the apertures includes a tear feature for enlarging the size of the one aperture, the tear feature comprising at least one discrete group of slits, the slits of the or each group radiating from the aperture, each slit of the or each group is disposed transversely of a notional radial line such that removal of an article through the one aperture causes a tear to propagate divergently from the notional radial line thereby causing the size of the aperture to be progressively increased.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as providing a means for displaying and supporting the articles in combination with an access means for removal of the articles where the access means leaves the carton with sufficient integrity for replacement of articles for the purpose of returning to a recycling point.

The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) because none of the available prior art documents discloses a tear feature for enlarging the size of the apertures, the tear feature comprising at least one discrete group of slits which radiate from the aperture and are disposed transversely of a notional radial line.

The cuts provided in the panels of the prior art documents D1, D2, D3 do not comprise a tear feature such that removal of an article through an aperture causes a tear to propagate divergently from a notional radial line thereby causing the size of the aperture to be progressively increased. In fact the cited prior art documents disclose neck retainers which solve a different problem. Removal of an article through the aperture is not foreseen.

- 2.2 Claim 9 is related to a blank for forming a top closure panel according to claim 1. Reference is made to the reasoning concerning claim 1 (see above 2.1), thus claim 9 also meets the requirements of the PCT with respect to novelty and inventive step.

3 DEPENDENT CLAIMS

- 3.1 Claims 2-4, 6-8 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.
- 3.2 Claims 10-12 are dependent on claim 9 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Re Item VII

Certain defects in the International application

- 4 Claim 5 is not allowable because its additional feature (a retaining means provided by the open top container) is not a feature of the top closure panel, but it is exclusively related to the open top container which is not part of the claimed subject-matter.
- 5 The application does not comply with the following rules:
- Rule 5.1(a)(ii) PCT (background art; citations).
Rule 6.2(b) PCT (reference signs).
Rule 6.3(b) PCT (two-part form).